

ORIGINAL

EDMUND G. BROWN JR., Attorney General
of the State of California
ARTHUR D. TAGGART
Supervising Deputy Attorney General
BRIAN S. TURNER, State Bar No. 108991
Deputy Attorney General
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 445-0603
Facsimile: (916) 324-5567

Attorneys for Complainant

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2008-354

JANICE LOUISE JONES
21817 Fargo Avenue
Lemoore, California 93245

A C C U S A T I O N

Registered Nurse License No. RN 374467

Respondent.

Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

PARTIES

1. Complainant brings this Accusation solely in her official capacity as the Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer Affairs.

License History

2. On or about August 31, 1984, the Board issued Registered Nurse License Number 375467 ("license") to Janice Louise Jones ("Respondent"). The license will expire on April 30, 2010.

STATUTORY PROVISIONS

3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a

1 temporary or an inactive license, for any reason provided in Article 3 (commencing with Code
2 section 2750) of the Nursing Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a
4 license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
5 against the licensee or to render a decision imposing discipline on the license. Under Code
6 section 2811, subdivision (b), the Board may renew an expired license at any time within eight
7 years after the expiration.

8 5. Code section 118, subdivision (b), provides that the suspension,
9 expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to
10 proceed with a disciplinary action during the period within which the license may be renewed,
11 restored, reissued or reinstated.

12 6. Code section 2761 states, in pertinent part:

13 The board may take disciplinary action against a certified or
14 licensed nurse or deny an application for a certificate or license for any of
the following:

15 (a) Unprofessional conduct, . . .

16 (f) Conviction of a felony or of any offense substantially
17 related to the qualifications, functions, and duties of a registered nurse, in
18 which event the record of the conviction shall be conclusive evidence
thereof.

19 7. Code section 2762 states, in pertinent part:

20 In addition to other acts constituting unprofessional conduct
21 within the meaning of this chapter [the Nursing Practice Act], it is
unprofessional conduct for a person licensed under this chapter to
22 do any of the following:

23 (a) Obtain or possess in violation of law, or prescribe,
or except as directed by a licensed physician and surgeon, dentist,
24 or podiatrist administer to himself or herself, or furnish or
administer to another, any controlled substance as defined in
25 Division 10 (commencing with Section 11000) of the Health and
Safety Code or any dangerous drug or dangerous device as defined
26 in Section 4022.

27 (b) Use any controlled substance as defined in Division
10 (commencing with Section 11000) of the Health and Safety
28 Code, or any dangerous drug or dangerous device as defined in
Section 4022, or alcoholic beverages, to an extent or in a manner

1 dangerous or injurious to himself or herself, any other person, or
2 the public or the extent that such use impairs his or her ability to
conduct with safety to the public the practice authorized by his or
her license.

3
4 (c) Be convicted of a criminal offense involving the
prescription, consumption, or self-administration of any of the
5 substances described in subdivisions (a) and (b) of this section, or
the possession of, or falsification of a record pertaining to, the
6 substances described in subdivision (a) of this section, in which
event the record of the conviction is conclusive evidence thereof.

7 8. Code section 4060 states, in pertinent part:

8 No person shall possess any controlled substance, except that
9 furnished to a person upon the prescription of a physician, dentist,
podiatrist, optometrist, or veterinarian, or furnished pursuant to a drug
10 order issued by a certified nurse-midwife . . . , a nurse practitioner . . . , or
a physician assistant, or a pharmacist. . . .

11 9. Health and Safety Code Section 11173, subdivision (a), provides that no
12 person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure
13 the administration of or prescription for controlled substances, (1) by fraud, deceit,
14 misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

15 COST RECOVERY

16 10. Code section 125.3 provides, in pertinent part, that the Board may request
17 the administrative law judge to direct a licensee found to have committed a violation or
18 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
19 and enforcement of the case.

20 11. DRUG

21 "Vicodin," a compound consisting of 5 mg. hydrocodone bitartrate, also known
22 as dihydrocodeinone, and 500 mg. acetaminophen per tablet, is a Schedule III controlled
23 substance as designated by Health and Safety Code section 11056, subdivision (e)(4).

24 FIRST CAUSE FOR DISCIPLINE

25 (Criminal Conviction)

26 12. Respondent is subject to disciplinary action under Code section 2761,
27 subdivision (f), in that on or about September 14, 2005, in the Superior Court of California,
28 Kings County, in the case entitled, *People of the State of California v. Janice Louise Jones*

1 (Super Ct. Kings County, 2005, Case No. 05CM3171), Respondent was convicted on her plea of
2 guilty of violating Business and Professions Code section 4324, subdivision (b) (Possessed a
3 Drug Secured by a Forged Prescription, to wit: Vicodin), a felony. The circumstances of the
4 crime are that on March 11, 2005, Respondent possessed Vicodin, which was secured by a forged
5 prescription. Such crime is substantially related to the functions, duties, and qualifications of a
6 registered nurse.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Conviction Involving Possession of a Drug by False Prescription)**

9 13. Respondent is subject to disciplinary action under Code section 2761,
10 subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762,
11 subdivision (c), in that Respondent was convicted of a crime involving the possession of a drug
12 secured by a false prescription, as set forth in paragraph 12, above.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Obtained, Possessed, and Self-Administered a Controlled Substances)**

15 14. Respondent is subject to disciplinary action under Code section 2761,
16 subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762,
17 subdivision (a), in that in that while licensed as a registered nurse in California, Respondent
18 committed the following acts:

19 a. Between December 2004, and March 2005, Respondent obtained unknown
20 quantities of Vicodin, a Schedule III controlled substance, by fraud, deceit, misrepresentation or
21 subterfuge by calling in unauthorized prescriptions in her family member's names for filling at
22 local pharmacies for her own personal use, in violation of Health and Safety Code section 11173,
23 subdivision (a).

24 b. On or about March 11, 2005, Respondent possessed unknown quantities
25 of Vicodin, a Schedule III controlled substance, without a valid prescription, in violation of
26 Code section 4060.

27 c. In and between December 2004 and March 2005, Respondent self-
28 administered Vicodin, a Schedule III controlled substance, without lawful authority therefor.

PRAYER

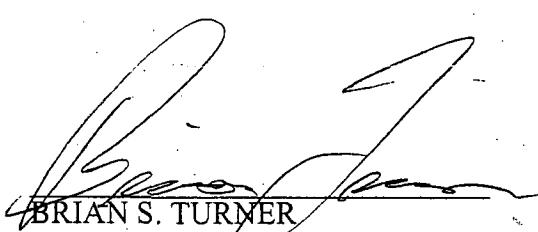
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 375442 issued to Janice Louise Jones;

2. Ordering Janice Louise Jones to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,

3. Taking such other and further action as deemed necessary and proper.

DATED: 6/17/08


BRIAN S. TURNER

Deputy Attorney General for
RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SA2008300963
30407976.wpd